IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 150 (SB) OF 2002

Smt. Saraswati Devi,
W/o late Harish Chandra Joshi,
R/o Dugal Khola, Tehsil- Almora,
District : Almora. .....Petitioner.

Versus

1. State of Uttaranchal, through Secretary Animal Husbandry (Pashu Palan Vibhag), Uttaranchal Govt. Dehradun.
2. Deputy Director, Animal Husbandry (Pashu Palan) Gopeshwar, Chamoli.
3. Chief Medical Officer, of Animal Husbandry, Distt. Chamoli.
4. State of U.P., through Secretary Animal Husbandry, (Pashu Palan), Lucknow.
5. Chief Account Officer, Animal Husbandry, Lucknow.

.....Respondents

Mr. K.N. Joshi, Advocate for the petitioner.
Mrs. Beena Pandey, learned Standing Counsel for the State of U.P.

Dated: 03.03.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of mandamus directing the respondents to approve the family pension of late Shabhu Dutt Joshi, Live Stock Extension Officer in favour of the petitioner.

2. Brief facts giving rise to the present writ petition are that the petitioner's son late Sri Shambhu Dutt Joshi was posted as Live Stock Extension Officer (Pashu Palan Adhikari) at Gopeshwar, Chamoli. He died on 26.12.1988 while in service.

3. The petitioner has sent representation before the District Live Stock Officer in reply his letter dated 06.07.1989 and requested him to release the G.P.F. life insurance, family pension etc. in her favour but of no avail, only G.P.F. and Insurance amount has been released and rest of the amount has not been extended to the petitioner.

4. The District Live Stock Officer, Almora on 12th February, 1990 has directed the petitioner to fulfill all the formalities, thereafter, she has fulfilled all the formalities and on 12th July, 1990 she has also sent the service book of late Sri S.D. Joshi.

5. However, he made several representations from time to time and 13 years have already passed but the retiral benefits except G.P.F. and Insurance have not been released in favour of the petitioner.

6. A counter affidavit has been filed by the State, where it has been held as under:-

"(F) That it is also necessary to mention here that Government of U.P. issued a Government order No. Sa-3-1720-Das-308-97, dated 23.12.1997, regarding family pension that is applicable only those employees, who has retired or expired on 01.01.1996 or thereafter.

(G) That according to the aforesaid government order, for the first time in the definition of family, the mother/father has been included who was fully dependent on the deceased government servant."

7. Learned counsel for the petitioner has submitted that under the law of succession, the mother/father is still entitled as one of the dependant.

8. In view of the aforesaid writ petition, the respondents are directed to consider the claim of the petitioner (Annexures No. 4 and 6 to the writ petition) within a period of two months by a reasoned order from the date of presentation of the certified copy of the order.

9. Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

03.03.2006
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